

## Comptroller of the Currency, Treasury

## § 145.93

any office other than your home office, agency office, administrative office, data processing office, or an electronic means or facility under part 155 of this chapter.

(b) *Branching.* Subject to the application and notice requirements at §§145.93 and 145.95 of this chapter, you may branch in any state or states of the United States and its territories unless the location would violate:

(1) Section 5(r) of the HOLA (12 U.S.C. 1464(r));

(2) Section 10(e)(3) of the HOLA (12 U.S.C. 1467a(e)(3)); or

(3) Section 13(k)(4) of the FDIA (12 U.S.C. 1823(k)(4)).

(c) *Preemption.* This exercise of the OCC's authority is preemptive of any state law purporting to address the subject of branching by a Federal savings association.

### § 145.93 Application and notice requirements for branch and home offices.

(a) *Application and notice requirements.* A Federal savings association ("you") must file an application or notice with the appropriate OCC licensing office and receive approval or non-objection under §145.95 before you change the permanent location of, or establish a new, home or branch office, except as provided in this section.

(b) *Exceptions.* You are not required to submit an application or notice and receive OCC approval or non-objection under §145.95 under the following circumstances:

(1) *Drive-in or pedestrian offices.* You may establish a drive-in or pedestrian office that is located within 500 feet of a public entrance to your existing home or branch office, provided the functions performed at the office are limited to functions that are ordinarily performed at a teller window.

(2) *Short-distance relocation.* You may change the permanent location of an existing home or branch office to a site that is within the market area and short-distance location area of the existing home or branch office. The short-distance relocation area of an existing office is the area that is within:

(i) A 1000-foot radius of an existing office that is within a Principal City in a Metropolitan Statistical Area (MSA)

designated by the U.S. Department of Commerce;

(ii) A one-mile radius of an existing office that is within an MSA, but is not within a Principal City; or

(iii) A two-mile radius of an existing office that is not in an MSA.

(3) *Highly-rated Federal savings associations.* You may change the permanent location of, or establish a new, branch or home office if you meet all of the following requirements:

(i) You are eligible for expedited treatment under §116.5 of this chapter. For the purposes of that section, you must meet the capital requirements under part 167 of this chapter before and immediately after you change the location of your home or branch office or establish a new branch office.

(ii) You published a notice of your intent to change the location of your home or branch office or establish a new branch office. To satisfy this publication requirement, you must follow the procedures in subpart B of part 116 of this chapter except that:

(A) Under §116.55(d) and (e) of this chapter, your public notice must state that the public may submit comments to you and to the appropriate OCC licensing office, and must provide addresses for you and for the appropriate OCC licensing office where the public may submit comments;

(B) Section 4.14(c) of this chapter, which addresses public inspections of filings with the OCC, does not apply; and

(C) Under §116.60 of this chapter, you must publish the public notice at least 35 days before you take the proposed action. If you publish a public notice more than 12 months before you take the proposed action, the publication is invalid.

(iii) If you intend to change the location of an existing office, you must post a notice of your intent in a prominent location in the existing office to be relocated. You must post the notice for 30 days from the date of publication of the initial public notice described in paragraph (b)(3)(ii) of this section.

(iv)(A) No person files a comment opposing the proposed action within 30 days after the date of the publication of the proposed notice; or

(B) A person files a comment opposing the proposed action and the OCC determines that the comment raises issues that are not relevant to the approval standards in §145.95(b) of this chapter or that OCC action in response to the comment is not required.

(4) *Re-designations of home and branch offices.* You may re-designate an existing branch office as a home office at the same time that you re-designate your existing home office as a branch office.

(c) *Section 5(m) of the HOLA.* If you are incorporated under the laws of, organized in, or do business in the District of Columbia and you satisfy the requirements of paragraph (b) of this section, the Comptroller has approved your home or branch office changes under section 5(m) of the HOLA.

(d) *Maintenance of branch and home office following conversion, consolidation, purchase of bulk assets, merger, or purchase from receiver.* An existing savings association that converts to a Federal savings association may maintain an existing office and a Federal savings association may maintain any office acquired through consolidation, purchase of bulk assets, merger or purchase from the receiver of an association, except to the extent that the approval of the conversion, consolidation, merger, or purchase specifies otherwise.

(e) *Prohibition.* You may not file an application or notice (or utilize any exception described in paragraph (b) of this section) to establish a branch office, if you filed an application to merge or otherwise surrender your charter and the application has been pending for less than six months.

**§145.95 What processing procedures apply to my home or branch office application or notice?**

(a) *Processing procedures.* Applications and notices under §145.93 are subject to expedited or standard treatment under the application processing procedures at part 116 of this chapter.

(1) *Publication and posting requirements.* (i) You must publish a public notice of your application or notice in accordance with the procedures in subpart B of part 116 of this chapter. Promptly after publication, you must

transmit copies of the public notice and the publisher's affidavit to the appropriate OCC licensing office.

(ii) If you propose to change the location of an existing office, you must also post a notice of the application in a prominent location in the office to be relocated. You must post the notice for 30 days from the date of publication of the initial public notice.

(2) *Comment procedures.* Commenters may submit comments on your application or notice in accordance with the procedures in subpart C of part 116 of this chapter.

(3) *Meeting procedures.* The OCC may arrange a meeting in accordance with the procedures in subpart D of part 116 of this chapter.

(4) *OCC Review.* The OCC will process your application or notice in accordance with the procedures in subpart E of part 116 of this chapter. The applicable review period for applications filed under standard treatment is 30 days rather than the time period specified at §116.270(a) of this chapter.

(b) *Approval standards.* (1) The OCC will approve an application (or not object to a notice), if your overall policies, condition, and operations afford no basis for supervisory objection.

(i) You should meet or exceed minimum capital requirements under part 167 of this chapter and should be at least adequately capitalized as described in §165.4(b)(2) of this chapter, before and immediately after the proposed action. If you are undercapitalized as described in §165.4(b)(3) of this chapter, the OCC will deny your application (or disapprove your notice), unless the proposed action is otherwise permitted under section 38(e)(4) of the FDIA.

(ii) The OCC will evaluate your record of helping to meet the credit needs of your entire community, including low- and moderate-income neighborhoods, under part 195 of this chapter. The OCC may:

(A) Deny your application or disapprove your notice based upon this evaluation; or

(B) Impose a condition to the approval of your application (or non-objection to your notice) requiring you to improve specific practices and/or aspects of your performance under part